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David A. DiMarzio
Clerk of Court**UNITED STATES DISTRICT COURT**
District of Rhode IslandRobert R. Henry
Chief Deputy Clerk

DISTRICT OF MASS.

April 1, 2005

Clerk's Office
U.S. District Court
District of Massachusetts
2300 U.S. Courthouse
One Courthouse Way
Boston, MA 02210-3002RE: Penny Letendre v. Min S. Ahn, M.D., et al
USDC-RI #04-199ML

Dear Clerk:

Enclosed please find the original pleadings, a certified copy of the docket relative to the above-captioned matter, and the Memorandum and Order signed by Judge Mary M. Lisi dated March 31, 2005 transferring this case to your district.

Kindly acknowledge receipt for the same on the enclosed copy of this letter.

Sincerely,

David A. DeMarzio
Clerk of Court

BY:

A handwritten signature in cursive script that reads "Barbara L. Barletta".

Barbara L. Barletta
Deputy Clerk
(401) 752-7204

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

PENNY LETENDRE

v.

C.A. No. 04-199ML

MIN S. AHN, M.D.; JANE DOE; and
MIN S. AHN, M.D., P.C., d/b/a THE
AESTHETIC WELLNESS CENTER

MEMORANDUM AND ORDER

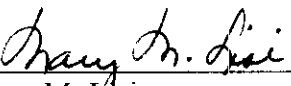
This matter is before the court on the motion to dismiss filed by the defendants Min S. Ahn, M.D. and Min S. Ahn, M.D., P.C., d/b/a the Aesthetic Wellness Center.¹ Alternatively, defendants seek transfer of this action to the United States District Court for the District of Massachusetts. In support of their motion, defendants contend that the United States District Court for the District of Rhode Island lacks personal jurisdiction over them. The plaintiff has filed an objection to defendants' motion. Additionally, the plaintiff has filed a motion for leave to conduct jurisdictional discovery. The defendants object to plaintiff's motion.

The Court has reviewed the parties' memoranda and supporting exhibits, including Dr. Ahn's affidavit of December 28, 2004, and the plaintiff's answers, dated December 1, 2004, to defendants' interrogatories. The Court concludes that it lacks personal jurisdiction over either defendant. Further, the Court concludes that it is in the interest of justice that the action be transferred to the District of Massachusetts, which both defendants concede possesses personal jurisdiction over them. 28 U.S.C. § 1631; see Cimon v. Gaffney, ___ F.3d ___, ___ n. 21, 2005 WL 552858 at *5, n. 21 (1st Cir. 2005). Moreover, the Court finds that the plaintiff has failed to demonstrate that jurisdictional discovery is warranted.

¹ The defendants seek dismissal pursuant to Fed. R. Civ. P. 12(b)(2) and 12(c). The Court considers the motion as one filed pursuant to Rule 12(c).

Accordingly, the defendants' motion to dismiss plaintiffs' complaint is denied. Pursuant to 28 U.S.C. § 1631, the matter is hereby transferred to the United States District Court for the District of Massachusetts. The plaintiff's motion for leave to conduct jurisdictional discovery is denied.

SO ORDERED.



Mary M. Lisi
United States District Judge

March 31, 2005

U.S. District Court
District of Rhode Island (Providence)

CIVIL DOCKET FOR CASE #: 04-CV-199

Letendre v. Ahn, et al
Assigned to: Judge Mary M Lisi
Demand: \$0,000
Lead Docket: None
Dkt# in other court: None

Jury demand: Both
Nature of Suit: 362
Jurisdiction: Diversity

Filed: 05/24/04

Cause: 28:1332 Diversity-Medical Malpractice

PENNY LETENDRE
plaintiff

Peter J. Petrarca, Esq.
[COR LD NTC ret]
Petrarca & Petrarca Law Offices
330 Silver Spring Street
Providence, RI 02904
401-273-1111

v.

MIN S. AHN, M.D.
defendant

Andrew T. Neuwirth
[COR LD NTC ret]
J. Peter Kelley, Esq.
[COR LD NTC]
Foster & Eldridge, LLP
One Canal Park
Suite 2100
Cambridge, MA 02141
617-252-3366

MAGISTRATE JUDGE *RBC*

MIN S. AHN, M.D., PC
dba
The Aesthetic Wellness Center
defendant

Andrew T. Neuwirth
(See above)
[COR LD NTC ret]
J. Peter Kelley, Esq.
(See above)
[COR LD NTC]

Proceedings include all events.
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DLM

5/24/04 1 COMPLAINT filed; FILING FEE \$ 150.00 RECEIPT # 57250 (fpm) [Entry date 05/24/04]

5/24/04 -- CASE assigned to Judge Mary M. Lisi . Assigned to Magistrate Judge Martin (fpm) [Entry date 05/24/04]

5/26/04 -- 2 SUMMONS(ES) issued (fpm) [Entry date 05/26/04]

6/24/04 2 RETURN OF SERVICE executed as to Min S. Ahn, Min S. Ahn, M.D., PC 6/21/04 Answer due on 7/12/04 for Min S. Ahn, for Min S. Ahn, M.D., PC (jd) [Entry date 06/24/04]

7/21/04 3 ANSWER to Complaint by Min S. Ahn, Min S. Ahn, M.D., PC (Attorney Andrew T. Neuwirth); jury demand (jd) [Entry date 07/21/04]

8/31/04 -- Rule 16 Conference set 9:30 9/28/04 Before Judge Mary M. Lisi (bb) [Entry date 08/31/04]

9/28/04 -- Rule 16 Conference held; Peter J. Petrarca for pltf; Andrew Neuwirth for defts. A PTO to enter closing discovery on 3/28/05. A S/C to be held with MJ Lovegreen in December. (bb) [Entry date 09/28/04]

9/30/04 4 SCHEDULING ORDER setting Discovery cutoff 3/28/05 ; Deadline for filing of all motions 4/15/05 ; Pretrial Memorandum Deadline 4/28/05 ; - forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 09/30/04]

10/14/04 -- Settlement conference set on 9:30 12/7/04 Before Magistrate Judge Robert W. Lovegreen (paf) [Entry date 10/14/04]

10/22/04 5 RETURNED DOCUMENT: M/Pro Hac Vice as improperly filed by Andrew T. Neuwirth, Esq. -- no copies; no \$50 PHV filing fee (signed by Magistrate Judge Lincoln D. Almond on 10/21/04) (jd) [Entry date 10/22/04]

11/4/04 6 MOTION by Min S. Ahn, Min S. Ahn, M.D., PC for J. Peter Kelley to Appear Pro Hac Vice (jd) [Entry date 11/04/04]
Reference: 7

11/22/04 7 ORDER granting [6-1] motion for J. Peter Kelley to Appear Pro Hac Vice J. Peter Kelley added to the database.- forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 11/22/04]

12/7/04 -- Settlement conference held before Judge Lovegreen (paf) [Entry date 12/07/04]

12/16/04 8 NOTICE by Penny Letendre to take deposition of Min S. Ahn, M.D. (jd) [Entry date 12/16/04]

Proceedings include all events.
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12/27/04 9 MOTION by Penny Letendre for Protective Order (to quash subpoenas issued by the deft) (jd) [Entry date 12/28/04]
Reference: 19

12/30/04 10 MOTION, with Memorandum & attached Exhibits, by Min S. Ahn, Min S. Ahn, M.D., PC to Dismiss (jd) [Entry date 12/30/04]
[Edit date 03/31/05]
Reference: 32

1/3/05 11 SECOND NOTICE by Penny Letendre to take deposition of Min S. Ahn, M.D. (cancels & supersedes prior notice) (jd)
[Entry date 01/03/05]

1/4/05 12 MEMORANDUM of LAW by Min S. Ahn, Min S. Ahn, M.D., PC in opposition to pltf's [9-1] motion for Protective Order (jd)
[Entry date 01/04/05]

1/5/05 13 THIRD NOTICE by Penny Letendre to take deposition of Min S. Ahn, M.D. (jd) [Entry date 01/05/05]

1/7/05 -- Motion(s) referred: [9-1] motion for Protective Order (to quash subpoenas issued by the deft) referred to Magistrate Judge David L. Martin (bb) [Entry date 01/07/05]

1/11/05 -- Motion hearing re: [9-1] motion for Protective Order (to quash subpoenas issued by the deft) at 10:00 1/20/05 before Magistrate Judge David Martin (mes) [Entry date 01/11/05]

1/12/05 14 OBJECTION (without Memorandum) by Penny Letendre to defts' [10-1] motion to Dismiss for Lack of Personal Jurisdiction (jd) [Entry date 01/12/05]

1/12/05 15 MOTION by Penny Letendre to Enlarge Time through 2/14/05, within which to respond to defts' M/Dismiss (jd)
[Entry date 01/12/05]
Reference: 16

1/14/05 16 ORDER granting [15-1] motion to Enlarge Time through 2/14/05, within which to respond to defts' M/Dismiss - forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 01/14/05]

1/20/05 -- Motion hearing re: [9-1] motion for Protective Order (to quash subpoenas issued by the deft) Motion hearing held before Magistrate Judge David Martin. Peter Petrarca for the plaintiff; Andrew Neuwirth for the defendant. All counsel of record present. Plaintiff argues motion. Defendant states objections. Court grants in part and denies in part the motion. Court to conduct a in camera review of records within fourteen days. (mes)
[Entry date 01/20/05]

1/20/05 17 Minute entry: Hearing held on Plaintiff's Motion for a Protective Order before Magistrate Judge David Martin (mes)

Proceedings include all events.
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[Entry date 01/20/05]

- 2/3/05 18 JOINT MOTION by Penny Letendre, Min S. Ahn, Min S. Ahn, M.D., PC to Extend each date in the Court's Scheduling Order by six months (jd) [Entry date 02/03/05]
Reference: 20
- 2/4/05 19 ORDER granting in part, denying in part [9-1] motion for Protective Order (to quash subpoenas issued by the deft) (signed by Magistrate Judge David L. Martin) forwarded to all counsel of record (mes) [Entry date 02/04/05]
- 2/10/05 20 ORDER granting [18-1] joint motion to Extend each date in the Court's Scheduling Order by six months - forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 02/10/05]
- 2/11/05 21 AMENDED SCHEDULING ORDER setting Discovery cutoff 9/28/05 ; Deadline for filing of all motions 10/12/05 ; Pretrial Memorandum Deadline 10/28/05 ; - forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 02/11/05]
- 2/14/05 22 MEMORANDUM (w. attached exhibits) by Penny Letendre in support of pltf's [14-1] motion response (jd) [Entry date 02/14/05]
- 2/14/05 23 MOTION by Penny Letendre to Exceed the 5-Page Limit on exhibits and/or appendices in support of pltf's M/Conduct Jurisdictional Discovery (jd) [Entry date 02/14/05]
Reference: 25
- 2/14/05 24 MOTION, with Memorandum, by Penny Letendre to Conduct Jurisdictional Discovery (jd) [Entry date 02/14/05]
Reference: 32
- 2/17/05 25 ORDER denying without prejudice [23-1] motion to Exceed the 5-Page Limit on exhibits and/or appendices in support of pltf's M/Conduct Jurisdictional Discovery - forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 02/17/05] [Edit date 02/17/05]
- 2/24/05 26 MOTION by Penny Letendre to Exceed Page Limit on Exhibits and/or Appendices re: pltf's memorandum in support of pltf's request to conduct jurisdictional discovery (jd) [Entry date 02/24/05]
Reference: 27
- 2/25/05 27 ORDER granting [26-1] motion to Exceed Page Limit on Exhibits and/or Appendices re: pltf's memorandum in support of pltf's request to conduct jurisdictional discovery - forwarded to counsel of record (signed by Judge Mary M. Lisi) (bb) [Entry date 02/25/05]

Proceedings include all events.
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DLM

2/25/05 28 ORDER RE MEDICAL RECORDS REVIEWED IN CAMERA, Records to be released to Defendants' Counsel on or after 3/7/05 except those from Cumberland Family Eye Care; Plaintiff's counsel may review records prior to that date; Records from Cumberland Family Eye Care will be destroyed after 3/17/05 (signed by Magistrate Judge David L. Martin) faxed to counsel (jt) [Entry date 02/25/05]

3/4/05 29 ORDER RE: Additional Medical Records Reviewed In Camera (signed by Magistrate Judge David L. Martin) forwarded to all counsel of record (mes) [Entry date 03/04/05]

3/7/05 30 RESPONSE by Min S. Ahn, Min S. Ahn, M.D., PC in opposition to [24-1] motion to Conduct Jurisdictional Discovery (jd) [Entry date 03/07/05]

3/7/05 31 RESPONSE by Min S. Ahn, Min S. Ahn, M.D., PC in opposition to [22-1] support memorandum, [14-1] motion response (jd) [Entry date 03/07/05]

3/8/05 -- Motion(s) referred to Judge: [24-1] motion to Conduct Jurisdictional Discovery, [10-1] motion to Dismiss for Lack of Personal Jurisdiction (bb) [Entry date 03/08/05]

3/31/05 32 MEMORANDUM and ORDER denying [24-1] motion to Conduct Jurisdictional Discovery, denying [10-1] motion to Dismiss -- The Court concludes it lacks personal jurisdiction over either deft. Pursuant to 28 U.S.C. sec. 1631, the matter is hereby transferred to the U.S. District Court for the District of Massachusetts (signed by Judge Mary M. Lisi on 3/31/05) -- forwarded to counsel of record (jd) [Entry date 03/31/05]